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CITY OF CLEARLAKE
6 (erroneously named herein as CLEARLAKE POLICE DEPARTMENT)

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DAVID DAVIS and PAGE GEARHART-DAVIS) Case No. C 07-03365 EDL
PRO-SE,)
Plaintiffs,) DECLARATION OF DIRK D.
vs.) LARSEN IN OPPOSITION TO
CLEARLAKE POLICE DEPARTMENT,) PLAINTIFFS' MOTION TO
Defendants.) COMPEL PRODUCTION OF
WITHHELD DOCUMENTS &
OFFICERS' PERSONNEL
RECORDS
Date: May 13, 2008
Time: 9:00 a.m.
Courtroom: E, 15th Floor
Judge: Hon. Elizabeth D.
LaPorte

I, DIRK D. LARSEN, declare as follows:

1. I have personal knowledge of the following facts, and could and would testify competently thereto if called upon to do so.

2. I am an attorney at law duly licensed to practice before all courts of the State of California and before the United States District Court for the Northern District of California, and am an associate employed by the law firm of Low, Ball & Lynch, attorneys of record herein for defendant CITY OF CLEARLAKE (the "City").

3. On April 1, 2008, I received a voice-mail message from plaintiff Page Gearhart-Davis

1 regarding the City's responses to Plaintiffs' request for production of documents. I received a similar
 2 voice-mail message from Ms. Gearhart-Davis on April 2, 2008. On April 2, 2008, at approximately
 3 2:35 p.m., I attempted to return Ms. Gearhart-Davis' calls, but received no answer. On April 3, 2008, at
 4 approximately 3:35 p.m., I again attempted to return Ms. Gearhart-Davis' calls, but again received no
 5 answer. On April 4, 2008, I reached plaintiff Ms. Gearhart-Davis by telephone, but Ms. Davis was
 6 unable to discuss the issues at that time. I first had the opportunity to discuss the issues underlying
 7 Plaintiffs' motion with Ms. Gearhart-Davis on April 7, 2008, by which time Plaintiffs had already filed
 8 their present motion to compel production of documents.

9 4. Based on Plaintiffs' motion and a number of ensuing telephone conversations, the parties
 10 have been able to clarify their respective positions and interpretations with respect to Plaintiffs' request
 11 for production. Plaintiffs clarified that their request for audio recordings included recordings made
 12 during the investigation of Plaintiffs' complaint.

13 5. On April 14, 2008, I sent Plaintiffs a letter stating that the City would determine whether
 14 any such complaint-related recordings exist and produce them as applicable. The letter also stressed
 15 that, other than such recordings, the City had already produced or identified all other responsive
 16 materials. A true and correct copy of this letter is attached hereto as Exhibit E and incorporated by this
 17 reference.

18 6. Based on Plaintiffs' clarification of their document request, the City produced to
 19 Plaintiffs the following recordings on April 21, 2008: interview of plaintiff David Davis by Clearlake
 20 Police Capt. Larsen; tape recording and photographs of David Davis from August 3, 2006; interview of
 21 Plaintiffs on January 12, 2007; and interviews of Clearlake Police Officers Hobbs, Miller, Hardisty and
 22 Sgt. Celli of August 24, 2006. A true and correct copy of the City's Second Supplemental Response to
 23 Plaintiffs' Request for Production of Documents is attached hereto as Exhibit F and incorporated by this
 24 reference.

25 7. Plaintiffs clarified to me that their reference to "dispatch record" checks in requests
 26 # 7-13 seeks records of the Clearlake Police Officers' contacts with the Clearlake Police Department or
 27 other agencies while the stops of Plaintiffs were taking place. The City has provided all such records in
 28 its possession as part of its initial disclosure pursuant to F.R.C.P. 26(a). A true and correct copy of the

1 City's initial disclosure pursuant to F.R.C.P. 26(a) is attached hereto as Exhibit A and incorporated by
 2 this reference. The records responsive to Plaintiffs' request for "dispatch records" were included in this
 3 disclosure, and are referenced on page 1 of the disclosure as documents Bates-stamped CLE0001
 4 through CLE 0017. The City's reference to Lake County court records in its responses to Plaintiffs'
 5 request for production refers to all other materials associated with the citations issued, and was based on
 6 a misunderstanding of Plaintiffs' term "dispatch record."

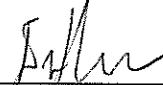
7 8. With respect to Plaintiffs' request for the production of audio, video and documents
 8 pertaining to Clearlake Police Officers' stops of Plaintiffs (requests # 1-6), the City has already produced
 9 responsive materials in its possession or stated that it does not have responsive documents in its
 10 possession. A true and correct copy of the City's Supplemental Response to Plaintiffs' Request for
 11 Production of Documents is attached hereto as Exhibit C and incorporated by this reference. The City
 12 produced documents associated with those stops as part of its initial disclosure pursuant to F.R.C.P. 26.

13 9. A true and correct copy of Plaintiffs' Request for Production of Documents, which forms
 14 the basis for Plaintiffs' present motion, is attached hereto as Exhibit B and incorporated by this
 15 reference.

16 10. A true and correct copy of a March 6, 2008 Clearlake Police Department Interoffice
 17 Memorandum from Nicole Newton to Clearlake Police Lt. Michael Hermann is attached hereto as
 18 Exhibit D and incorporated by this reference. This memorandum was attached as Exhibit A to the City's
 19 Supplemental Response to Plaintiffs' Request for Production of Documents.

20 I swear under penalty of perjury under the laws of the State of California that the foregoing is
 21 true and correct.

22
 23 Executed this 22nd day of April, 2008, in San Francisco, California

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 25 
 26 DIRK D. LARSEN
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